IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4564 of 1995

Date of Decision:19th September, 2007

Housing Board Haryana.

.... Petitioner

Versus

Bhag Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE S.D. ANAND.

Present : Mr. V.K. Vashista, Advocate,
for the petitioner.

Mr. Bhag Singh, Advocate,
for the respondent.

S.D. Anand, J.

Conceded facts in the first instance. About 25 acres of land situated in the revenue estates of Dhulkot and Patti Suba Akbarpur (adjoining each other otherwise) was acquired for a public purpose i.e. the construction of Housing Board Colony, vide Haryana Government Gazette Notification dated 05.04.1982/24.04.1982. The land comprised in Khasra Nos. 9//4/1/2 and 9//4/2/1 was jointly owned by Karnail Singh and Bikar Singh as co-sharers. Out of them, Bikkar Singh had sold 7 marla of land (measuring 211.75 square yards to Bhag Singh respondent vide registered sale deed dated 11.03.1983. Bhag Singh-respondent thereby became a co-sharer in that land along with Bikkar Singh. That land, however, never came to be partitioned between the co-sharers inter se.

The co-sharers, other than Bhag Singh-respondent, filed a reference under Section 18 of the Land Acquisition Act. All those petitions were disposed of by the then learned District Judge, Ambala, vide order dated 05.12.1988 (LAC No. 221/A/4 of 1987-Janak Raj versus Land Acquisition Collector) and the market value of the acquired land was assessed at the rate of Rs. 30/- per square yard, besides other statutory benefits. In appeal (RFA No. 498 of 1989) preferred by those co-sharers, this Court enhanced the market value of the acquired land from Rs. 30/- per square yard to Rs. 50/- per square yard. Respondent-Bhag Singh did not file an appeal before this Court for enhancement of the market value. Instead thereof, he preferred to file an application (Misc. Application No. 228 of 1994, under Sections 151 and 152 of the Code of Civil Procedure) for availing of the enhanced market value verdict rendered by this Court. It is that plea of his which was allowed by the then learned District Judge, Ambala, vide the impugned order.

The learned counsel for the petitioner argued that the respondent-Bhag Singh was not entitled to avail of the enhanced market value because the provision of Section 28A(1) would apply to only those persons who had failed to file a reference under Section 18 of the Land Acquisition Act. Reliance, in support of the advocated plea, was placed upon Anjebhau s/o Anna versus State of Maharashtra, 1994(2) Recent Law Reporter (Bombay) 340.

In response thereto, the learned counsel for the respondent placed on file a photo copy of the order dated 01.12.1995 vide which a similar challenge filed by the Haryana Housing Board-appellant was declined in limine by this Court in Civil Revision No. 4019 of 1995.

Even otherwise, this Court categorically held in 1990, P.L.J., 515 (Jangir Singh and another versus State of Punjab) that similarly circumstanced land owners must get the benefit of enhanced compensation even if they had not gone in for an appeal. Likewise, in 1981, All India Land Laws Reporter, 237 (Punjab State (Now Haryana) versus M/s Globe Motors Ltd. and another), a Division Bench of this Court held that benefit of award can be claimed by all the co-sharers even if the reference under Section 18 of the Land Acquisition Act had been made by one of the co-sharers.

No law taking a contrary view in the context was cited before this Court.

The present revision petition is held to be devoid of merit and is ordered to be dismissed.

September 19, 2007 (S.D. Anand)
vkd Judge

Note : Whether referred to reporter or not : Yes/No